

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TRUSTEES OF THE PENSION PLAN
OF THE PENSION FUND OF
AMALGAMATED PRODUCTION &
SERVICE EMPLOYEES LOCAL 22
F/K/A TRUSTEES OF THE PENSION
PLAN OF THE PENSION FUND OF
AMALGAMATED, INDUSTRIAL TOY
& NOVELTY WORKERS OF
AMERICA, LOCAL 223,

Plaintiffs,

-against-

THE GOLDBERGER COMPANY LLC,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 7/26/2021

20 Civ. 9518 (AT)

ORDER

ANALISA TORRES, District Judge:

On June 30, 2021, the Court issued an order to show cause setting a briefing schedule for Plaintiffs' motion for default judgment (the "Order to Show Cause"). ECF No. 26. The Court ordered Plaintiffs to serve copies of the Order to Show Cause and supporting documents on Defendant by hand-delivery or first-class mail and N.Y. Business Corp. Law § 306. *Id.*

On July 1 and 2, 2021, Plaintiffs filed an affidavit indicating that Defendant was served by first-class mail. ECF Nos. 27–28. However, Plaintiffs did not attach proof of service indicating that service was actually executed, nor did they demonstrate that Defendant was served pursuant to the procedures set out in N.Y. Business Corp. Law § 306. On July 19, 2021, the Court again ordered Plaintiffs to file on the docket proof of service by first-class mail, and further ordered Plaintiffs to serve Defendant by service on the Secretary of State, no later than July 21, 2021. ECF 29. On July 26, 2021, three days past the Court's stipulated deadline, Plaintiffs filed on the docket an affidavit indicating they had executed service on Defendant through the Secretary of State. However, Plaintiffs have still not provided the Court with proof of service by first-class mail, such as a receipt or confirmation from the mail carrier that such documents were indeed delivered to Defendant. The Court considers an affidavit merely indicating that such service was indeed executed insufficient without proof of the mailing and delivery itself. Accordingly:

- By **July 28, 2021**, Plaintiff shall file on the docket proof of service of the Order to Show Cause and supporting papers on Defendant.
- By **August 2, 2021**, Defendant shall respond to Plaintiffs' motion.

- By **August 4, 2021**, Plaintiffs shall submit their reply, if any.

SO ORDERED.

Dated: July 26, 2021
New York, New York



ANALISA TORRES
United States District Judge